

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

TODD ALAN BROWN,

Plaintiff,

v.

OFFICER WEB, *et al.*,

Defendants.

No. 4:22-CV-01153

(Chief Judge Brann)

ORDER

AND NOW, this 30th day of May 2024, in accordance with the accompanying Memorandum, **IT IS HEREBY ORDERED** that:

1. Defendants' motions (Docs. 61, 63) to dismiss under Federal Rule of Civil Procedure 12(b)(6) are **GRANTED** in part and **DENIED** in part, as follows:
 - a. Plaintiff's Section 1983 Fourteenth Amendment medical indifference claim against defendant Kati Cruz is **DISMISSED** with prejudice pursuant to Federal Rule of Civil Procedure 12(b)(6).
 - b. Plaintiff's declaratory claim under Article 1 Section 9 of the Pennsylvania Constitution against Cruz is **DISMISSED** with prejudice pursuant to Rule 12(b)(6).
 - c. Plaintiff's claims of First Amendment retaliation, Fourteenth Amendment procedural due process infringement, false arrest, false imprisonment, intentional infliction of emotional distress, and negligence—to the extent they are asserted in the second amended complaint—are **DISMISSED** with prejudice as to both Defendants for failure to state a claim upon which relief may be granted.

- d. Plaintiff's official capacity claims are **DISMISSED** pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii) and (iii) as to both Defendants.
 - e. Defendants' motions are **DENIED** in all other respects.
- 2. This case shall proceed on the following claims only: (1) Section 1983 Fourteenth Amendment deliberate indifference to serious medical needs against defendant Theresa Balum; (2) declaratory relief against Balum under Article 1 Section 9 of the Pennsylvania Constitution for alleged medical indifference; and (3) state-law medical malpractice against Balum and Cruz.
 - 3. Defendants shall respond to the remaining claims listed in paragraph 2 above as required by Federal Rule of Civil Procedure 15.

BY THE COURT:

s/ Matthew W. Brann

Matthew W. Brann

Chief United States District Judge